

Summary Judgment [Doc. 55] filed on May 30, 2008, to the extent the movants in their individual capacities sought summary judgment on Smith's claim as set forth in Count IV of his complaint, to the extent the defendants challenged Smith's requests for prospective injunctive relief and to the extent the defendants argued that Smith lacked standing to advance complaints on behalf of other prisoners regarding DOC policies, programs and procedures.

Because it was arguable that the defendants had also sought summary judgment on the claims set forth in Counts I and II of Smith's complaint because Smith had failed to present any evidence establishing an affirmative link between deliberate, intentional conduct on the part of any defendant and the alleged constitutional deprivations set forth in those two counts, the Court re-referred the matter to Magistrate Judge Purcell for further proceedings.

The matter now comes before the Court on Magistrate Judge Purcell's Fourth Supplemental Report and Recommendation issued on August 10, 2009, wherein he has recommended that the Motion for Summary Judgment filed by the foregoing named defendants as well as defendants Bill Monday, former OSR Chief of Security, and Lenora Jordan, former OSR Warden, be granted as to Counts I and II of Smith's complaint. Magistrate Judge Purcell has likewise recommended that the Court grant summary judgment in favor of Monday and Jordan on the remaining count against them, Count III.

Smith, who is African-American, brought this action seeking legal and equitable relief under title 42, section 1983 of the United States Code for alleged violations of his constitutional rights. The event giving rise to the lawsuit was an assault on Smith, allegedly perpetrated by individuals associated with a white supremacy inmate gang, while he was

incarcerated at OSR on November 8, 2005. Smith lost his vision in his left eye as a result of the attack. After the alleged racially-motivated assault, Smith was transferred from OSR to another correctional facility. He has since been released from prison.

Smith was advised of his right, and given the opportunity, to object to the Fourth Supplemental Report and Recommendation. The record indicates that he has not challenged either Magistrate Judge Purcell's well-written and thorough findings or his recommendations.

Based upon the record and in the absence of any objection, the Court concurs with Magistrate Judge Purcell's suggested disposition of the defendants' motion. All movants are entitled to summary judgment as a matter of law to Counts I and II, and Monday and Jordan are entitled to summary judgment as a matter of law as to Count III.

Accordingly, the Court

(1) ADOPTS the Fourth Supplemental Report and Recommendation [Doc. 118] issued on August 10, 2009;

(2) GRANTS the defendants' Motion for Summary Judgment [Doc. 93] filed on October 13, 2008; and

(3) because no claims or causes of action remain against any defendant, ORDERS that judgment issue in favor of the defendants and against Smith.

ENTERED this 11th day of September, 2009.


LEE R. WEST
UNITED STATES DISTRICT JUDGE